IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

MISC.PETITION NO.13 OF 2005

The Guardianship of Cyrus Khushroo Suntook of Bombay.

Khushroo Nariman Suntook & Ors. ..Petitioners.

Mr.D.J.Khambatta with A.S.Doctor i/b Mulla & Mulla for petitioner.

CORAM: A.M.KHANWILKAR,J

DATE : SEPTEMBER 28, 2005.

P.C. :

1. Heard Mr.Khambata for the petitioners. Petition is accepted and heard forthwith. The petitioners are the only persons related to Cyrus Khushroo Suntook. Petitioner No.1 is the father. Petitioner No.2 is mother and petitioner No.3 is the elder brother of said Cyrus. Petitioner No.1 was appointed as the sole guardian in respect of the immovable property of said Cyrus under order dated 1st September, 1989, whereas the petitioner No.1 and 2 is appointed as joint guardians of movable property and person of Cyrus under the said order. It appears that there is no possibility of recovery of Cyrus from the ailment of Cerebral palsy which causes lack of development of mind (retardation) and serious

impairment of all motor/co-ordination functions of the body. The said Cyrus is under the care and custody of petitioners herein. According to the petitioners, Petitioner No.1 has already crossed 70 years of age and is not in a position to take the responsibility to discharge obligations regarding the immovable properties of the said Cyrus. In this background, it is now agreed between the petitioners that all the petitioners be made joint guardian of immovable properties as well as movable properties and the person of said Cyrus.

2. As there is no possibility of receiving any opposition to this prayer, I have no hesitation in granting relief in terms of prayer clause (a), (b) and (c), in the interest of Cyrus, which read thus :

> (a) Petitioner No.2, the mother of the said Cyrus, be appointed guardian of the present and/or future immovable property and assets of the said Cyrus with all powers to act jointly with Petitioners Nos.1 and 3, inter alia, to manage, alienate, sell, encumber and/or transfer the present and/or future immovable properties and assets of the said Cyrus, but subject to what is stated in

Prayer (c) below.

(b) Petitioner No.3 be appointed guardian of the affairs, person and the present and/or future moveable and immovable property and assets of the said Cyrus, with all powers in law to act jointly with Petitioners Nos. 1 and 2, inter alia, to manage, alienate, sell, encumber and/or transfer the present and/or future moveable and immovable properties and assets of the said Cyrus, but subject to what is stated in Prayer (c) below.

(c) That it be ordered that so long as Petitioner No.1 is alive and otherwise capable of acting as guardian, he should be a mandatory signatory to any act, deed, matter or thing to be done in regard to the movable and immovable property and assets of the said Cyrus, and that thereafter all powers which could have been exercised by petitioner No.1 hereunder be exercised by Petitioners Nos. 2 and 3 jointly and the survivor of them.

3. Ordered accordingly.

4. Leave to amend to delete the word immovable occurring in paragraph-6 in sentence commencing by both at the same time and ending with said Syrus, so as to bring averments in petition in confirmity with the prayer clause. The error being clerical one is allowed to be corrected in the course of the day.